

JUL 23 2004

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BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE NEURONTIN "OFF-LABEL"
MARKETING LITIGATION

MDL Docket No. 1629

THE NEW JERSEY INDIRECT PURCHASER PLAINTIFFS'
INTERESTED PARTY STATEMENT

Court appointed Co-Lead Counsel for the Indirect Purchaser Plaintiffs in the proceeding referred to as *In re Neurontin Antitrust Litigation* MDL No. 1479, respectfully submit this interested party statement in connection with the above-captioned substantially related action (the "Off-Label Litigation").¹ Although Co-Lead Counsel in the Neurontin Antitrust litigation take no position herein as to the appropriate transferee court for the Neurontin Off-Label Litigation (e.g., whether that transferee court should be the district of Massachusetts, or New Jersey, or elsewhere), it is submitted that this Panel should indicate that the Neurontin Antitrust and Off-Label Litigation matters should be coordinated as to specific issues regardless whether the litigations are to be prosecuted in one or more transferee courts.

¹ The undersigned firms were appointed Co-Lead Counsel for the Indirect Purchaser Plaintiffs by the Court on March 14, 2003.

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A. The New Jersey Neurontin Antitrust Litigation, MDL 1479

Beginning in March of 2002, seventeen antitrust class actions were filed in six district courts across the country against Defendants Pfizer, Inc. and Warner-Lambert, Inc., alleging they violated federal and state antitrust laws by, *inter alia*, commencing sham patent litigations (“underlying patent litigations”) against a number of generic drug companies in order to prevent those companies from entering the market with a lower priced “bioequivalent” version of Neurontin (the “Antitrust Actions”). The Antitrust Actions were the subject of a transfer motion before the Panel. *See In re Neurontin Antitrust Litigation*, 217 F. Supp. 2d 1380 (J.P.M.L. 2002). Notably, the underlying patent litigations were the subject of another MDL motion. *See In re Gabapentin Patent Litigation*, MDL No.1384. After extensive briefing and hearing argument on the motion to transfer the Antitrust Actions pursuant to 28 U.S.C. § 1407, the Panel transferred the Antitrust Actions to the Honorable John C. Lifland of the United States District Court, District of New Jersey on August 15, 2002 noting that Judge Lifland had already gained significant experience in the *Gabapentin Patent Litigation* concerning Neurontin. *In re Neurontin Antitrust Litigation*, 217 F. Supp. 2d 1380 (J.P.M.L. 2002).

B. The Antitrust Actions And The “Off-Label” Litigation Should be Coordinated For Pretrial Proceedings

There are at least three reasons why, regardless of this Panel’s selection of the transferee Court, the Off-Label Litigation should be coordinated as to specific matters with the Antitrust Actions - MDL No. 1479.

First, the Off-Label Litigation and the Neurontin Antitrust Actions pending before Judge Lifland each involve the same Defendants and are brought on behalf of substantially overlapping classes.

Second, Plaintiffs in both the Off-Label Litigation and in the Neurontin Antitrust Litigation seek, among other things, Neurontin overcharge damages.

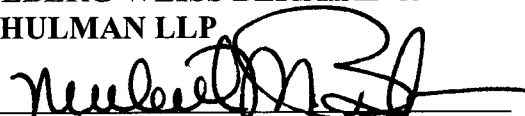
Third, discovery concerning the sales volume and price of Neurontin will be the same in both cases, thereby making coordination regarding such discovery mutually beneficial for all parties, most efficient and highly desirous.

For all these reasons, Co-Lead Counsel for the Indirect Purchaser Plaintiffs in *In re Neurontin Antitrust Litigation* MDL No. 1479 seek an Order coordinating the action subject to this proceeding with MDL No. 1479.

Respectfully submitted,

**MILBERG WEISS BERSHAD &
SCHULMAN LLP**

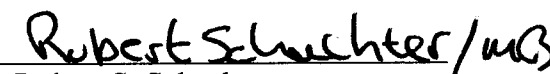
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CERTIFICATE OF SERVICE

I, Anita Avalos, certify that the foregoing THE NEW JERSEY INDIRECT PURCHASER PLAINTIFFS' INTERESTED PARTY STATEMENT was served by first class mail, postage prepaid on July 16, 2004, on the following counsel:

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